

AMENDED IN ASSEMBLY JANUARY 4, 2012

AMENDED IN ASSEMBLY APRIL 15, 2011

AMENDED IN ASSEMBLY MARCH 23, 2011

AMENDED IN ASSEMBLY MARCH 17, 2011

CALIFORNIA LEGISLATURE—2011–12 REGULAR SESSION

## ASSEMBLY BILL

**No. 19**

---

### Introduced by Assembly Member Fong

December 6, 2010

---

An act to add Chapter 4.2 (commencing with Section 1963.010) to Title 5 of Part 4 of Division 3 of the Civil Code, and to add Chapter 8.5 (commencing with Section 537) to Division 1 of the Water Code, relating to water.

#### LEGISLATIVE COUNSEL'S DIGEST

AB 19, as amended, Fong. Building standards: water meters: multiunit structures.

The Water Measurement Law requires every water purveyor to require, as a condition of new water service on and after January 1, 1992, the installation of a water meter to measure water service. That law also requires urban water suppliers to install water meters on specified service connections, and to charge water users based on the actual volume of deliveries as measured by those water meters in accordance with a certain timetable.

This bill would require a water purveyor that provides water service, *as defined*, to a newly constructed multiunit residential structure or newly constructed mixed-use residential and commercial structure, including a structure that is part of a common interest development,

that submits an application for a water connection after January 1, 2014, to require the installation of a water meter ~~or submeter~~ to measure the water supplied to each individual dwelling unit as a condition of new water service. ~~The bill would require the owner of the structure to ensure that a water submeter installed for these purposes complies with laws and regulations governing installation, approval of meter type, maintenance, reading, billing, and testing of water submeters. The bill would exempt certain buildings from these requirements.~~

~~Existing law governs the hiring of dwelling units.~~

~~The bill would impose prescribed requirements, including requirements for billing and disclosure, on landlords for submetered water service to individual dwelling units.~~

Vote: majority. Appropriation: no. Fiscal committee: no.  
State-mandated local program: no.

*The people of the State of California do enact as follows:*

1     ~~SECTION 1. Chapter 4.2 (commencing with Section 1963.010)~~  
2     ~~is added to Title 5 of Part 4 of Division 3 of the Civil Code, to~~  
3     ~~read:~~

4  
5                     ~~CHAPTER 4.2. WATER SERVICE~~  
6

7     ~~1963.010. It is the intent of the Legislature in enacting this~~  
8     ~~chapter to do both of the following:~~

9     ~~(a) To encourage the conservation of water in multifamily~~  
10    ~~residential rental buildings through means either within the~~  
11    ~~landlord's or the tenant's control.~~

12    ~~(b) To ensure that the practices involving the submetering of~~  
13    ~~dwelling units for water service are just and reasonable, and include~~  
14    ~~appropriate safeguards for both tenants and landlords.~~

15    ~~1963.020. As used in this chapter:~~

16    ~~(a) "Billing agent" means a person or entity who contracts to~~  
17    ~~provide submetering services to a landlord, including billing.~~

18    ~~(b) "Landlord" includes all agents of the landlord, billing agents,~~  
19    ~~successors in interest to the real property interests of the landlord,~~  
20    ~~and persons and entities with which the landlord contracts for~~  
21    ~~billing, meter reading, meter maintenance or repair, or other~~  
22    ~~services in connection with imposing water or sewage service~~

1 charges. "Landlord" does not include a tenant who rents all or a  
2 portion of a dwelling unit to subtenants.

3 (e) "Property" means real property containing two or more  
4 dwelling units that is served by a single meter.

5 (d) "Rental agreement" includes a fixed-term lease.

6 (e) "Renting" includes leasing, whether on a periodic or  
7 fixed-term basis.

8 (f) "Submeter" means a device that measures water consumption  
9 of an individual rental unit within a multiunit residential structure  
10 or mixed-use residential and commercial structure, and which is  
11 owned and operated by the landlord. "Submeter" includes  
12 submeters, if more than one submeter is being used to measure  
13 water usage in a particular dwelling unit.

14 (g) "Water service" includes any charges for other services,  
15 including sewage or storm water services, that are based on charges  
16 for water service.

17 (h) "Water purveyor" means a water purveyor as defined in  
18 Section 512 of the Water Code. A landlord complying with the  
19 provisions of this chapter shall not be considered a water purveyor.

20 1963.030. A landlord shall not charge tenants separately for  
21 water service unless the water and submetering system is installed,  
22 operated, and maintained as follows:

23 (a) The submeter is certified for commercial purposes pursuant  
24 to law, including, but not limited to, Section 12500.5 of the  
25 Business and Professions Code.

26 (b) The installation conforms to all laws, including, but not  
27 limited to, regulations established pursuant to Section 12107 of  
28 the Business and Professions Code.

29 (c) The installation was performed by a licensed service  
30 provider.

31 (d) The submeter is operated in compliance with regulations  
32 established pursuant to Section 12107 of the Business and  
33 Professions Code.

34 (e) The submeter for a dwelling unit measures only water that  
35 is supplied for the exclusive use of the particular dwelling unit and  
36 only to an area within the exclusive possession and control of the  
37 tenant of the dwelling unit.

38 (f) The primary submeter indicator or remote reader may be  
39 easily accessed and read by the tenant of the dwelling unit, and  
40 read by the owner landlord without entering the dwelling unit.

1     ~~(g) Each submeter is reinspected and recalibrated within the~~  
2     ~~time limits specified in law or regulation.~~

3     ~~(h) The plumbing fixtures conform to all laws regarding~~  
4     ~~habitability of dwellings and water conservation.~~

5     ~~(i) This section shall not be construed to require a water~~  
6     ~~purveyor to assume responsibility for ensuring compliance with~~  
7     ~~any law or regulation governing installation, certification,~~  
8     ~~maintenance, and testing of water submeters and associated onsite~~  
9     ~~plumbing.~~

10    ~~1963.040. Prior to executing a rental agreement, the landlord~~  
11    ~~shall clearly disclose the following to the tenant, in writing, in at~~  
12    ~~least 10-point type, which may be incorporated into the rental~~  
13    ~~agreement:~~

14    ~~(a) The tenant will be billed for water usage separately from the~~  
15    ~~rent.~~

16    ~~(b) The average bill for water usage for units at the property~~  
17    ~~over the most recent calendar year, or portion thereof if the building~~  
18    ~~is less than one year old.~~

19    ~~(d) The frequency of submeter readings.~~

20    ~~(e) The due dates and payment procedures for bills.~~

21    ~~(f) If a billing agent is used, the name, address, e-mail address,~~  
22    ~~normal hours of operation, and toll-free telephone number of the~~  
23    ~~agent.~~

24    ~~(g) The date the submeter was last tested and calibrated, and~~  
25    ~~the date by which it must be retested and recalibrated under law.~~

26    ~~(h) A statement in substantially the following form:~~

27    ~~The landlord (or name of landlord) shall charge you (or name~~  
28    ~~of tenant, or term used in the rental agreement for the tenant) for~~  
29    ~~water use at the same rate that the (purveyor) bills its customers~~  
30    ~~for residential use. To find out what the rate charged by (purveyor)~~  
31    ~~is, contact (purveyor) at (address), (telephone number).~~

32    ~~(i) A statement that the tenant shall only be charged for actual~~  
33    ~~water usage at the exact rate(s) charged by the water purveyor~~  
34    ~~servicing the building for volumetric water usage, and that no other~~  
35    ~~administrative, connection, disconnection, billing, or other periodic~~  
36    ~~fee or charge may be assessed, other than a late fee. If the landlord~~  
37    ~~reserves the right to charge a late fee, the amount and terms of the~~  
38    ~~late fee shall also be disclosed.~~

39    ~~(j) The location of the submeter, and the directions for the tenant~~  
40    ~~to read the submeter.~~

1     ~~1963.050. (a) A landlord shall bill a tenant only for volumetric~~  
2 ~~usage of water. The landlord shall not impose any periodic,~~  
3 ~~connection, termination, or other fee, however denominated, except~~  
4 ~~for late fees or testing fees as provided in this chapter.~~

5     ~~(b) The amount of the bill shall be calculated by multiplying~~  
6 ~~the water volume, as determined by the submeter for the billing~~  
7 ~~period in question, times the rate(s) for volumetric usage~~  
8 ~~established by the water purveyor for residential use.~~

9     ~~(c) If the rates established by the water purveyor change, the~~  
10 ~~bill shall be prorated to reflect the time each rate was in effect. At~~  
11 ~~the landlord's option, the landlord may assess charges for the entire~~  
12 ~~billing period based on the lower rate.~~

13     ~~(d) If a beginning or ending submeter reading is, in good faith,~~  
14 ~~not available, the landlord may bill the tenant 75 percent of the~~  
15 ~~amount originally disclosed to the tenant under subdivision (b) of~~  
16 ~~Section 1963.040.~~

17     ~~(e) No charges shall be imposed under this chapter if readings~~  
18 ~~have been unavailable for more than three months.~~

19     ~~1963.060. (a) The billing cycle shall match that of the water~~  
20 ~~purveyor.~~

21     ~~(b) Submeters shall normally be read at the same point in each~~  
22 ~~billing cycle. Submeters may be read within three days of the~~  
23 ~~normal date.~~

24     ~~(c) Bills shall be due at the same point in each billing cycle.~~  
25 ~~However, bills shall be due no earlier than five days after mailing,~~  
26 ~~if mailed, or one day after personal delivery.~~

27     ~~(d) Bills shall include the following information:~~

28     ~~(1) The beginning and ending submeter readings, the dates read,~~  
29 ~~and the indicated consumption.~~

30     ~~(2) The unit of measure for the readings and usage.~~

31     ~~(3) The rate(s) charged per unit of measure.~~

32     ~~(4) The amount of the current charges.~~

33     ~~(5) A separate entry showing past due amounts, if any.~~

34     ~~(6) A separate entry showing any previously-imposed late~~  
35 ~~charges.~~

36     ~~(7) The total amount due.~~

37     ~~(8) The due date for the bill.~~

38     ~~(9) A statement of the amount of late charges, if any, and when~~  
39 ~~the late charges would apply. Late charges shall be imposed~~  
40 ~~pursuant to Section 1963.110.~~

~~(10) The name, mailing address, e-mail address, telephone number, and the regular business hours of the person or persons the tenant may call with questions or concerns, and who is authorized to make any necessary adjustments. If a billing agent is used, the name of the entity shall be disclosed and the telephone number shall be toll-free.~~

~~1963.070. If a tenancy begins or ends on a date more than three days from than a normal reading, the submeter shall be read within three days of the beginning or end of the tenancy, and the first and last bills calculated accordingly. Tenancies beginning or ending within three days of a normal reading may be billed based upon the normal reading, for the first or last bills.~~

~~1963.080. (a) A landlord shall not charge or recover, or allow to be charged or recovered, any of the following:~~

~~(1) Any additional servicing, administrative, establishment, maintenance, meter reading, meter testing, billing, or submetering fee or other fee whatsoever, however denominated, including those charged by a billing agent.~~

~~(2) Any fees billed to the landlord by the water purveyor, billing agent, or any other person for any deposit, disconnect, reconnect, late payment, or other similar fees.~~

~~(3) Any charges by the water purveyor not directly based on volumetric usage, including any base charges, customer service charges, or monthly, bimonthly, or other periodic charges assessed regardless of the volume consumed.~~

~~(b) This section does not prohibit a landlord from recovering any costs listed in subdivision (a) that are incorporated into the rent for a dwelling unit, if the rent is a fixed amount per rental period, the charges are not listed separately, and the rental charges are otherwise lawful.~~

~~1963.090. The landlord shall maintain and make available in writing, at the tenant's request, within seven days after the request, the following:~~

~~(a) All installation and maintenance records of the submeter in the tenant's dwelling unit, including the name, license number, and contact information of the service provider who installed or serviced the submeter.~~

~~(b) The most recent test results of the submeter in the tenant's dwelling unit.~~

1     ~~(e) The method and sources used to determine the rate at which~~  
2     ~~the tenant is charged for water.~~

3     ~~1963.100. (a) If the water system in a dwelling unit does not~~  
4     ~~function properly, including leaks, a fixture allowing unnecessary~~  
5     ~~water consumption, or a malfunctioning submeter, the tenant may~~  
6     ~~request the landlord to repair the problem. The landlord shall make~~  
7     ~~the repairs within seven days.~~

8     ~~(b) A tenant may request that a landlord have a submeter tested~~  
9     ~~for accuracy. The landlord shall respond to the request within seven~~  
10    ~~days, and the test shall be carried out as soon as is practicable. The~~  
11    ~~test shall be performed by a service provider or other person~~  
12    ~~authorized by law to perform the test. If the test shows that the~~  
13    ~~submeter is inaccurate beyond the tolerances established by law,~~  
14    ~~the landlord shall repair or replace it. If the test shows the submeter~~  
15    ~~was indicating more usage than the true amount, beyond established~~  
16    ~~tolerances, the landlord shall refund the estimated overcharge to~~  
17    ~~the tenant within 30 days of receipt of the results.~~

18    ~~(c) The landlord shall pay for the cost of the test if either:~~

19    ~~(1) The tenant requests the test because the submeter has~~  
20    ~~indicated that water usage has increased more than 25 percent for~~  
21    ~~two consecutive billing periods over the previous three billing~~  
22    ~~periods.~~

23    ~~(2) The submeter is found to be inaccurate beyond the tolerances~~  
24    ~~established by law.~~

25    ~~(d) The tenant shall pay for the test in all other cases, up to a~~  
26    ~~maximum of fifty dollars (\$50).~~

27    ~~(e) The landlord is not required to test a submeter under~~  
28    ~~subdivision (b), if the submeter was tested and found accurate~~  
29    ~~within two years prior to the tenant's request, and the landlord~~  
30    ~~provides the written results of the test to the tenant. However, the~~  
31    ~~tenant may require the meter to be tested if the tenant pays in~~  
32    ~~advance for the entire cost of the test.~~

33    ~~1963.110. (a) A landlord may impose a late fee of up to 5~~  
34    ~~percent for any bill not paid within 20 days of its due date. If the~~  
35    ~~20th day falls on a Saturday, Sunday, or holiday, the late fee shall~~  
36    ~~not be imposed until one day after the extended time for payment.~~

37    ~~(b) (1) Notwithstanding Section 1950.5, if a bill remains unpaid~~  
38    ~~after the time described in subdivision (a) expires, the landlord~~  
39    ~~may, in lieu of a late fee, deduct the amount due from the tenant's~~  
40    ~~security deposit. The landlord may require an additional deposit~~

1 of security following a deduction, if the deposit would be otherwise  
2 lawful under Sections 827 and 1950.5.

3 ~~(2) The landlord may also deduct a water bill from the security~~  
4 ~~deposit upon the ending of a tenancy, provided that the last water~~  
5 ~~bill showing the amount due is attached to the documentation~~  
6 ~~required by Section 1950.5, and all the other requirements of that~~  
7 ~~section are met.~~

8 ~~(c) If a bill remains unpaid for 30 days after its due date, the~~  
9 ~~nonpayment shall constitute a curable breach of a material lease~~  
10 ~~obligation. The landlord may commence actions to remedy the~~  
11 ~~breach, as provided in the Code of Civil Procedure.~~

12 ~~(d) Water charges under the chapter shall not constitute rent.~~

13 ~~(e) A landlord shall not shut off the water or otherwise interfere~~  
14 ~~with the provision of water service to a dwelling unit for any~~  
15 ~~reason, including nonpayment of a bill assessed pursuant to this~~  
16 ~~chapter.~~

17 ~~1963.120. A tenant renting to subtenants may opt not to comply~~  
18 ~~with this chapter, if the sum total of any separate water charges~~  
19 ~~assessed to the subtenants does not exceed the amount paid by the~~  
20 ~~master tenant to the landlord under this chapter.~~

21 ~~1963.130. In addition to actual damages sustained by the tenant~~  
22 ~~for a violation of this chapter, the tenant may recover from the~~  
23 ~~landlord three times the amount of actual damages, a civil penalty~~  
24 ~~equal to one month's rent, reasonable attorney's fees, and court~~  
25 ~~costs. However, the landlord is not liable for a civil penalty if the~~  
26 ~~landlord proves that the violation was a good faith, unintentional~~  
27 ~~mistake.~~

28 ~~1963.140. A city, county, or district may enforce this chapter.~~

29 ~~1963.150. The rights or obligations established under this~~  
30 ~~chapter shall not be waived. Any purported waiver is void.~~

31 ~~SEC. 2.~~

32 ~~SECTION 1. Chapter 8.5 (commencing with Section 537) is~~  
33 ~~added to Division 1 of the Water Code, to read:~~

34  
35 CHAPTER 8.5. MULTIUNIT STRUCTURES  
36

37 537. (a) The following definitions govern the construction of  
38 this chapter:

39 (1) "Meter" has the same meaning as "water meter" in Section  
40 516 of the Water Code.



~~(2) “Submeter” means a device that measures water consumption of an individual unit within a multiunit residential structure or mixed-use residential and commercial structure, and is read by the owner of the structure or the owner’s agent.~~

~~(2) “Water purveyor” has the same meaning as “water purveyor” in Section 512.~~

~~(3) “Water service” includes any charges for other services, including, but not limited to, sewage or stormwater services, that are based on charges for water service.~~

(b) Structures in all of the following categories shall be exempt from this chapter:

(1) Low-income housing. For purposes of this paragraph, “low-income housing” means a residential building financed with low-income housing tax credits, tax-exempt mortgage revenue bonds, general obligation bonds, or local, state, or federal loans or grants, for which the rents of the occupants in lower income households, as defined in Section 50079.5 of the Health and Safety Code, do not exceed rents prescribed by deed restrictions or regulatory agreements pursuant to the terms of the financing or financial assistance, and for which not less than 25 percent of the dwelling units within the building are designated for occupancy by lower income households, as defined in Section 50079.5 of the Health and Safety Code.

(2) Student dormitories.

(3) Long-term health care facilities, as defined in Section 1418 of the Health and Safety Code.

(4) Time-share property, as defined in subdivision (aa) of Section 11212 of the Business and Professions Code.

~~(e) This chapter does not apply to a structure that is greater than four stories in height above grade if the owner, or his or her agent, demonstrates to the satisfaction of the water purveyor that the structure’s plumbing configuration incorporates multiple points of entry in each dwelling unit and renders the installation of submeters infeasible.~~

~~(d) A submeter used to measure water supplied to an individual residential unit that is required to be installed by a water purveyor pursuant to this chapter, shall be of a type approved pursuant to Section 12500.5 of the Business and Professions Code, and shall be installed and operated in compliance with regulations established pursuant to Section 12107 of the Business and Professions Code.~~

1     ~~538. (a) Each water purveyor that sells, leases, rents, furnishes,~~  
2 ~~or delivers water service to a newly constructed multiunit~~  
3 ~~residential structure or newly constructed mixed-use residential~~  
4 ~~and commercial structure for which an application for a water~~  
5 ~~connection, or more than one connection, is submitted after January~~  
6 ~~1, 2014, shall require the installation of a water meter or submeter~~  
7 ~~to measure the water supplied to each individual dwelling unit as~~  
8 ~~a condition of new water service.~~

9     ~~(b) (1) If the water purveyor requires installation of submeters~~  
10 ~~pursuant to subdivision (a), the owner of the structure shall ensure~~  
11 ~~that each submeter installed complies with all laws and regulations~~  
12 ~~governing installation, approval of meter type, maintenance,~~  
13 ~~reading, billing, and testing of water submeters.~~

14     ~~(2) This subdivision does not require a water purveyor to fund~~  
15 ~~or assume responsibility for ensuring compliance with any law or~~  
16 ~~regulation governing installation, approval of submeter type,~~  
17 ~~maintenance, reading, billing, and testing of water submeters and~~  
18 ~~associated onsite plumbing.~~

19     ~~(c) This section shall not restrict the authority of a water~~  
20 ~~purveyor to adopt and implement a program for the use of water~~  
21 ~~meters or submeters for multiunit residential structures or~~  
22 ~~mixed-use residential and commercial structures that promotes~~  
23 ~~water conservation, at least as stringently, as the requirements of~~  
24 ~~this section.~~

25     ~~539.~~

26     538. Each water purveyor that sells, leases, rents, furnishes, or  
27 delivers water service to a *newly constructed* multiunit residential  
28 structure or *newly constructed* mixed-use residential and  
29 commercial structure that is part of a common interest development  
30 for which an application for a water connection, or more than one  
31 connection, is submitted after January 1, 2014, shall require the  
32 installation of a water meter to measure water supplied to each  
33 individual dwelling unit as a condition of new water service.

34     ~~540.~~

35     539. It is the intent of the Legislature that this chapter should  
36 not be construed to impose costs on any local government agency,  
37 except to the extent that the local government agency is a water  
38 purveyor.

O